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Letter dated 10 February 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Tuvalu, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

03-25004 (E) 210203

Annex

Note verbale dated 31 January 2003 from the Permanent Mission of Tuvalu to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Tuvalu to the United Nations presents its compliments to the Chairman of the Security Council Counter-Terrorism Committee, and in reference to the note verbale from the former (SCC1C/31/02) dated 12 June 2002 concerning the Tuvalu report on counter-terrorism, has the honour to submit the enclosed report of the Government of Tuvalu on the actions it has taken pursuant to the said resolution (see enclosure)

Enclosure

Report of the Government of Tuvalu submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001

1. Tuvalu, a sovereign State in the South Pacific, small in population and land area is extremely vulnerable to natural and manmade disasters due to its smallness, geographical configuration, and lack of capacity and potentials. The island State, however, is still relatively untouched by major waves of changes and influences due to its remoteness.

2. Having joined as full Member of the United Nations in September 2000, Tuvalu is committed to the maintenance of peace, law and order, and believes in the virtues of dialogue as a mechanism to promote peace. In this regard, Tuvalu is determined to make a contribution towards efforts to combat terrorism and terrorists acts in all forms.

3. In the wake of attacks perpetrated by terrorists on Tuesday, 11 September 2001, that has cost thousands of innocent lives in the United States of America, Tuvalu has joined members of the international community in the United Nations and elsewhere and condemned the most savage and barbaric acts. In doing so it has also reaffirmed its commitment to support actions to combat terrorism through dialogue and cooperation at all levels.

4. Although Tuvalu is not a party to all international legal instruments aimed at combating terrorism, it has always been supportive and will continue to support cooperation with neighbouring states and within various regional and international forums particularly via the Pacific Island Forum Secretariat and the United Nations, in order to combat terrorism in a more effective manner.

5. Given its own vulnerability, Tuvalu welcomes the swift actions taken by the United Nations particularly following the events of 11 September 2001, especially the adoption of a number of resolutions that have laid the foundation for the strengthening of modes for international cooperation. Equally indispensable to such cooperation is the need to ensure there are avenues for closer dialogues and assistance to States through bilateral and multilateral channels.

6. Tuvalu also recognizes the risk of being exploited by terrorists if its domestic legal framework and enforcement is perceived as being less than complete, and the potential damage as an investment partner and tourist destination if it was seen as one that was not playing its part in the international fight against terrorism. Recognising its obligations as a United Nations member State, Tuvalu undertook to work as quickly and effectively as possible to meet the requirements of UNSCR 1373.

7. However, it is to be acknowledged that Tuvalu's ability to implement the necessary legislation to give effect to the UNSCR 1373 and the FATF Special Recommendations is very much constrained by its limited capacity in infrastructure, human and financial resources.

8. This being said, the events of September 11, 2001 have put the spotlight on a wider set of problems confronting Small Island Developing States like Tuvalu as a result of increased international mobility of goods, people and capital. This set includes border security, including illegal migration or transit of persons, people smuggling, movements of weapons and dangerous goods, and drug smuggling, and illicit movement of financial resources, which are more aggravated by the vast and open maritime zones that surround the islands.

9. Tuvalu has participated closely in, and is fully committed to the development of regional security measures under the auspices of the Pacific Island Forum which has led to the adoption of crucial regional instruments such as the Honiara Declaration, the Aitutaki Declaration, Biketawa Declaration and the Nasonini Declaration all aiming at improving domestic legislation, law enforcement and regional security in the Pacific. There is certainly a felt need in Tuvalu for assistance to develop local legislation based on the models provided under these regional instruments. Tuvalu is also committed to working together with other security technical bodies like the South Pacific Police Conference, the Oceania Customs Organisation and the Pacific Immigration Directors Conference to fully realize the requirements of the UNSCR 1373.

10. In order to prevent its financial system from being used to finance terrorism, Tuvalu has taken a number of initiatives in close cooperation with regional organizations. In compliance with its obligations under the Pacific Island Forum Honiara Declaration it has already drafted three (3) Bills, which are now ready to be tabled in Parliament. These are the *Proceeds of Crime Bill, the Mutual Assistance Bill, and the Extradition Bill.* Unfortunately, like existing Tuvalu legislation, these Bills do not fully capture the objectives of the UNSCR 1373 in relation to terrorism, terrorist acts and terrorist organization. These terminologies are yet to be properly defined in Tuvalu laws. Nevertheless, the Tuvalu Penal Code, while not defining terrorism, terrorist acts or terrorist organization doe criminalise a criminal conspiracy and those who plan to facilitate a criminal act.

11. Although terrorist act and terrorism are not specifically defined as offences, the consequences of such act which endanger life and property amount to a felonious crime under the Tuvalu legislation if such act was done with intent.

12. The importation of weapons and dangerous goods are fully regulated under the Customs and Arms and Ammunition Acts, which are also sugject to revision to incorporate new changes and circumstances; the Acts prohibit the importation of arms of any form other than those authorized by the Police Department.

13. As part of its efforts to combat terrorism Tuvalu will provide assistance vide the provisions under the Mutual Assistance in Criminal Matters Bill on the following matters, when a foreign country makes a request –

- taking evidence and producing of documents or other article for a proceeding in a foreign country;
- issuing a search warrant and seizing any thing relevant to proceeding or investigation in the foreign country;
- forfeiting and confiscating property for the commission of a serious offence against the law of a foreign country;
- restraining the dealings in a property that maybe forfeited or confiscated because of a serious offence against the law of the foreign country;
- providing assistance in criminal matters when a request is made by a foreign country to give evidence in proceeding or to give assistance for an investigation.

14. Offshore banking in Tuvalu is strictly prohibited. During the past years a good number of clients were turned away for this very reason.

15. Tuvalu has recently developed strategies to draft a Banking Act to effectively regulate banking transactions within Tuvalu, and to provide effective control on other financial institutions affording financial services outside the country. Current legal instruments on financial matters are inadequate to fully accommodate the sophisticated and complicated trends of terrorism.

16. Tuvalu has not yet signed the 1999 UN Convention on the suppression of financing of terrorism, although it is optimistic that it will do so once the enabling legislations are in place as mentioned above. It has however taken note of the fact that the UNSCR 1373 makes mandatory to all UN a comprehensive set of measures for combating terrorism. In order for Tuvalu to fully implement UNSCR 1373 and other UN terrorist related Conventions and Instruments, it is committed to working cooperatively and transparently with Member States to assist it meet its requirements and obligations.

17. As a Small Island Developing State Tuvalu needs assistance in the areas of human and financial resources to implement fully the provisions of UNSCR 1373. It has already sought assistance on the above through the Pacific Island Forum Secretariat, based in Suva, Fiji.